1

On Convention
Assembly Chamber, State Capitol
Sacramento
Friday Dec. 6th 1878

Convention met
pursuant to adjournment
President Hoge in the Chair.
Roll called and the
following members
were absent. —

2)

Roll-Call of Delegates to the Constitutional Convention, 1878.

Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.
ANDREWS	1		FAWCETT			LAVIGNE	6		SHOEMAKER		
AYERS	2		FILCHER	3		LEWIS	7		SHURTLEFF	5	
BARBOUR	3		FINNEY	4		LINDOW	8		SMITH of Santa Clara.	6	
BARNES	4		FREEMAN	5		MANSFIELD	9		SMITH of Fourth District.	7	
BARRY	5		FREUD	6		MARTIN of Alameda.	70		SMITH of San Francisco.	8	
BARTON	6		GARVEY	7		MARTIN of Santa Cruz.	1		SOULE	9	
BEERSTECHER	7		GLASSCOCK	8		McCALLUM	1		STEDMAN	100	
BELCHER	8		GORMAN	9		McCOMAS	2		STEELE	1	
BELL	1		GRACE	1		McCONNELL	1		STEVENSON	2	
BERRY			GRAVES	40		McCOY	3		~~STRONG~~		
BIGGS			GREGG	1		McFARLAND	1		STUART	3	
BLACKMER	9		HAGER	2		McNUTT	4		SWEASEY	4	
BOGGS	10		HALE	1		MILLER	5		SWENSON	4	
BOUCHER	1		HALL	3		MILLS	6		SWING	1	
BROWN	2		HARRISON	4		MOFFAT	7		TERRY	5	
BURT	3		HARVEY	5		MORELAND	8		THOMPSON	6	
CAMPBELL	4		HEISKELL	6		MORSE	9		TINNIN	7	
CAPLES	5		HEROLD	7		MURPHY			TOWNSEND	1	
CASSERLY	6		HERRINGTON	8		NASON	80		TULLY	1	
CHAPMAN	7		HILBORN	9		NELSON	1		TURNER	8	
CHARLES	8		HITCHCOCK	50		NEUNABER	2		TUTTLE	9	
CONDON			HOLMES	1		NOEL	3		VACQUEREL	120	
COWDEN	9		HOWARD	1		O'DONNELL	1		VAN DYKE	1	
CROSS	20		HUESTIS	2		OHLEYER	4		VAN VOORHIES	2	
CROUCH	1		HUGHEY	3		O'SULLIVAN	5		WALKER of Marin.	3	
DAVIS	2		HUNTER	4		OVERTON	6		WALKER of Tuolumne.	4	
DEAN	1		INMAN	5		PORTER	7		WATERS	1	
DOWLING	4		JOHNSON	6		PROUTY	8		WEBSTER	5	
DOYLE	5		JONES	7		PULLIAM			WELLER	6	
DUDLEY of San Joaquin and Amador.			JOYCE	8		REDDY	125		WELLIN	7	
DUDLEY of Solano.	6		KELLY	9		REED	9		WEST	8	
DUNLAP	7		~~KENNY~~			REYNOLDS	90		WICKES	9	
EAGON			KEYS	60		RHODES	1		WHITE	120	
EDGERTON	8		KLEINE	1		RINGGOLD	2		WILSON of Tehama.	1	
ESTEY of Contra Costa and Marin.	9		LAINE	2		ROLFE	3		WILSON of First District.		
ESTEE of First District.	30		LAMPSON	3		SCHELL	1		WINANS	2	
EVEY	1		LARKIN	4		SCHOMP	4		WYATT	3	
FARRELL	2		LARUE	5		SHAFTER	1		MR. PRESIDENT	124	

AYES _____

NOES _____

3)

Leave of absence

Leave of absence was granted to Mr. Wilson of Eight District for two days.

On motion of Mr Brown the reading of the journal was dispensed with, and the same approved.

On motion of Mr Mansfield 480 additional copies of the Memorial presented by the committee on agriculture, manufactures and commerce, on the 4th inst were ordered printed

4) The President presented the following communication from the Superintendent of State Printing which was ordered to lay on the table

Mr. President:

In compliance with certified resolution from the Convention, dated December 4th, I have the honor to submit the following Estimates. These figures are made upon the basis that the State possessed the text- and copyright, and all the appliances necessary for doing such work. For the first 1.000, complete series, of a book in every respect equal to the Pacific Coast Readers, it would cost the State:

For Composition	$449.06	For Binding	$665.00
For Paper	352.90	For Engraving cuts	3.750.00
For Press-work	150.50	For Electrotyping	568.80
Total			$5.936.26
Each additional thousand			$1.168.40

The cost of publishing a series, equal in all respects to the McGuffey Readers, would be, for the first 1.000:

Composition	$489.61	Binding	$665.00
Paper	267.50	Engraving	3.500.00
Press-work	161.75	Electrotyping	534.00
Total			$5.617.86
Each additional thousand			$1.094.35

Respectfully submitted,
F. P. Thompson,
Supt State Printing.

Report of Superintendent State Printing, in compliance with Resolution No. 91.

The President presented the following communication from the Sergeant-at-arms in response to a resolution adopted by the convention on yesterday -

9)

To the Honorable President and members of the Constitutional Convention

Gentlemen

In reply to a resolution of inquiry passed by your Honorable body on yesterday asking me for information as to the authority by which others than members of the Convention occupy Committee rooms and other parts of this building, to the inconvenience of members of the Convention, I will say, that the rooms now used by the Convention, for Committees and other purposes were obtained from the Secretary of State on request, by resolution passed for that purpose.

I gave no one authority to occupy the rooms and I retained the keys in my possession yet some of them were occupied Wednesday and Thursday evenings by others than members of the Convention.

On inquiry I was informed that permission was obtained from the Secretary of State.

Respectfully Submitted

F. J. Sherwood

Sergeant at Arms

89

Laid on the table.

Memorial.

Mr. Burchers presented a memorial from the citizens of San Francisco in regard to land monopoly and equal taxation

Referred to the committee on Land and Homestead Exemption

Resolution.

By Mr Dowling:

Whereas, The Hon Alexander H. Stephens has

9)

introduced a bill in the House of Representatives of the United States providing Government aid in building the Texas and Pacific Railroad and as the Government is fully secured in said bill by a first mortgage on the road and on all the land granted said Railroad company by the United States and the state of Texas, and, Whereas by the provision of said bill the said

Texas and Pacific Rail-
road is to ~~be and~~ remain
forever an independent
and competitive trans-con-
tinental line, to be construc-
ted solely by White labor. There-
fore be it Resolved: by the
Constitutional convention
of the state of California,
That our Senators and
representatives in Congress
be requested to support
the said Bill and use
all reasonable and
honorable means to

11)

secure its enactment into a law.

Resolved that the Secretary be requested to forward to each of our Senators and Representatives in Congress a copy of these resolutions.

Mr. Welling moved to lay the resolution on the table so ordered.

Mr. Ayers presented a Memorial from citizens of Los Angeles County against the army ~~[illegible]~~

12)

Mention of God in the Constitution

Referred to the Committee on Bill of Rights and Bill of Rights.

Proposed amendment By Mr. Vacquerel Relative to corporations

on motion of Mr. Grace laid on the table.

Report

By Mr. Belcher.

Mr President.

Your Committee to whom was referred the communication of the Hon W. B. C. Brown dated December 2nd 1878, concerning the pay of the members of this Convention during its late recess from November 27th to December 2nd, and concerning the funeral expenses and per diem of the late Hon J M Strong, beg leave to report that they have duly considered the same.

In view of the doubts which exist as to the true construction of the Statutes, and the rights of this Convention we recommend the passage by the Convention of the following resolution —

Resolved, That the President appoint a committee of three members to confer with the Attorney General of this State and present with him an agreed case so as to obtain from the Supreme Court at as early a day as possible, a decision involving the true construction

of the Act of the Legislature of this State entitled "An Act to provide for a Convention to frame a new Constitution for the State of California" approved March 30th 1878 and a determination, of the various questions pending, regarding the power of this Convention over the fund referred to in said Act and whether the stationery and like things furnished the members and the printing are payable out of said fund, and also a determination of the other matters, in which the views of the State Comptroller ~~of this State~~ are in conflict with the views of this Convention.

Dec 5th 1878

S M Wilson
Chairman Judy
Jud Department

The report was received and the resolution accompanying the same unanimously adopted.

The President appointed as the committee under the foregoing resolution

Messrs Laine
Shaples and
Berry.

Mr. Edgerton moved that the article in Revenue and Taxation, be made the special order to be

16)

considered immediately after the article on Legislative Department.

so ordered.

Committee of the Whole.

On motion of Mr. Estes the Convention resolved itself into Committee of the whole — President Hoge in the Chair — to further consider the article on corporations.

at ten o'clock and forty five minutes P.M. the Committee arose, reported

and recommend that sections 20 and 21 be referred to the committee on Corporations other than Municipal to harmonize Section 21 with the action of the committee of the whole on section 20.

In Convention.

Mr. Estes moved that the recommendation be adopted.

Mrs Howard - Kelley, Beerstecher, Wyatt and O'Donnell demanded

the previous question which was ordered by the convention.

On adopting the recommendation of the committee of the whole, the ayes and noes were demanded by Messrs, McCallum, Hall, Wyatt, Joyce and Van Dyke.

The roll was called and the ~~[illegible]~~ elections were referred by the following vote:-

29)

Roll-Call of Delegates to the Constitutional Convention, 1878.

Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.
ANDREWS	1		FAWCETT			LAVIGNE		24	SHOEMAKER		
AYERS	2		FILCHER	23		LEWIS		25	SHURTLEFF	63	
BARBOUR	3		FINNEY	24		LINDOW		26	SMITH of Santa Clara.		
BARNES	4		FREEMAN			MANSFIELD	43		SMITH of Fourth District.		
BARRY	5		FREUD	25		MARTIN of Alameda.			SMITH of San Francisco.	64	
BARTON	6		GARVEY		9	MARTIN of Santa Cruz.			SOULE	65	
BEERSTECHER		1	GLASSCOCK	26		McCALLUM		27	STEDMAN	66	
BELCHER		2	GORMAN	27		McCOMAS	44		STEELE	67	
BELL	7		GRACE		10	McCONNELL	45		STEVENSON	68	
BERRY			GRAVES		11	McCOY	46		STRONG		
BIGGS			GREGG		12	McFARLAND		28	STUART	69	
BLACKMER	8		HAGER	28		McNUTT	47		SWEASEY		37
BOGGS	9		HALE		13	MILLER	48		SWENSON	70	
BOUCHER	10		HALL	29		MILLS		29	SWING		38
BROWN		3	HARRISON	30		MOFFAT	49		TERRY		39
BURT	11		HARVEY		14	MORELAND	50		THOMPSON	71	
CAMPBELL		4	HEISKELL		15	MORSE	51		TINNIN	72	
CAPLES		5	HEROLD	31		MURPHY			TOWNSEND	73	
CASSERLY	81		HERRINGTON	32		NASON	52		TULLY		40
CHAPMAN	12		HILBORN		16	NELSON	53		TURNER	74	
CHARLES	13		HITCHCOCK		17	NEUNABER	54		TUTTLE	75	
CONDON			HOLMES	33		NOEL		30	VACQUEREL		41
COWDEN	14		HOWARD		18	O'DONNELL	55		VAN DYKE		42
CROSS	15		HUESTIS	34		OHLEYER		31	VAN VOORHIES		43
CROUCH	16		HUGHEY	35		O'SULLIVAN	56		WALKER of Marin.	76	
DAVIS	17		HUNTER	36		OVERTON	57		WALKER of Tuolumne.		44
DEAN	18		INMAN	37		PORTER		32	WATERS		45
DOWLING			JOHNSON	38		PROUTY		33	WEBSTER		46
DOYLE		6	JONES		19	PULLIAM			WELLER		47
DUDLEY of San Joaquin and Amador.			JOYCE		20	REDDY	58		WELLIN		
DUDLEY of Solano.		7	KELLY	39		REED	59		WEST	77	
DUNLAP			KENNY			REYNOLDS	60		WICKES	78	
EAGON			KEYS	40		RHODES		34	WHITE	79	
EDGERTON	19		KLEINE		21	RINGGOLD	61		WILSON of Tehama.	80	
ESTEY of Contra Costa and Marin.		8	LAINE		22	ROLFE		35	WILSON of First District.		
ESTEE of First District.	20		LAMPSON		23	SCHELL		36	WINANS		48
EVEY	21		LARKIN	41		SCHOMP			WYATT		49
FARRELL	22		LARUE	42		SHAFTER	62		MR. PRESIDENT		50

AYES 81

NOES 50

1

81

20

Resolution

By Mr. Zimmin.

Resolved: That further instructions to committee on Corporations other than Municipal.

That Section 20 be amended so as to provide for the election of three Railroad Commissioners by districts at the same time, and making their terms of office four years, also that the Legislature may remove a Commissioner by a two thirds

vote of all the members elected to each house

Mr. Herrington moved to amend as follows:

Resolved: That the Committee on Corporations other than municipal so report this action upon sections 20 and 21 as to have the Commissioners elected by the state at large but ~~and~~ selected ~~from~~ from districts.

Messrs Howard, Brown, Hunter, Terry and O'Donnell demanded the previous

question which was ordered by the convention.

The amendment of Mrs. Hessington was rejected.

On the adoption of the resolution of Mrs Zimmin the ayes and noes were demanded by Messrs Barber, O'Sullivan, Brown, Steadman and Forman.

Mr. Hale called for a division of the question.

The roll was called on that portion of the resolution relating to electing the

23)

The commissioners mind it was adopted by the following vote.

24)

Roll-Call of Delegates to the Constitutional Convention, 1878.

Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.
ANDREWS	1		FAWCETT			LAVIGNE	44		SHOEMAKER		
AYERS	2		FILCHER	22		LEWIS		20	SHURTLEFF		
BARBOUR	3		FINNEY		8	LINDOW			SMITH of Santa Clara.		
BARNES	4		FREEMAN			MANSFIELD	45		SMITH of Fourth District.	63	
BARRY	5		FREUD	23		MARTIN of Alameda.		21	SMITH of San Francisco.	64	
BARTON	6		GARVEY	24		MARTIN of Santa Cruz.			SOULE		
BEERSTECHER	7		GLASSCOCK	25		McCALLUM		22	STEDMAN	65	
BELCHER			GORMAN	26		McCOMAS	46		STEELE		30
BELL	8		GRACE	27		McCONNELL	47		STEVENSON	66	
BERRY			GRAVES		9	McCOY	48		~~STRONG~~		
BIGGS			GREGG	28		McFARLAND	49		STUART	67	
BLACKMER		1	HAGER	29		McNUTT			SWEASEY		31
BOGGS		2	HALE		10	MILLER	50		SWENSON	68	
BOUCHER	9		HALL	30		MILLS		23	SWING	69	
BROWN	10		HARRISON	31		MOFFAT			TERRY		32
BURT	11		HARVEY		11	MORELAND	51		THOMPSON	70	
CAMPBELL		3	HEISKELL	32		MORSE			TINNIN	71	
CAPLES	12		HEROLD		12	MURPHY			TOWNSEND	72	
CASSERLY	82		HERRINGTON		13	NASON	52		TULLY		33
CHAPMAN			HILBORN	33		NELSON	53		TURNER	73	
CHARLES	13		HITCHCOCK		14	NEUNABER	54		TUTTLE	74	
CONDON			HOLMES	34		NOEL		24	VACQUEREL	75	
COWDEN			HOWARD	35		O'DONNELL	55		VAN DYKE		34
CROSS	14		HUESTIS	36		OHLEYER		25	VAN VOORHIES		35
CROUCH		5	HUGHEY			O'SULLIVAN	56		WALKER of Marin.	76	
DAVIS	15		HUNTER	37		OVERTON		26	WALKER of Tuolumne.		36
DEAN	16		INMAN		15	PORTER		27	WATERS	77	
DOWLING			JOHNSON	38		PROUTY		28	WEBSTER		37
DOYLE	17		JONES		16	PULLIAM			WELLER		38
DUDLEY of San Joaquin and Amador.			JOYCE	39		REDDY	57		WELLIN	78	
DUDLEY of Solano.		6	KELLY	40		REED	58		WEST	79	
DUNLAP			~~KENNY~~			REYNOLDS	59		WICKES	80	
EAGON			KEYS	41		RHODES	60		WHITE	81	
EDGERTON	18		KLEINE		17	RINGGOLD	61		WILSON of Tehama.		39
ESTEY of Contra Costa and Marin.		7	LAINE		18	ROLFE		29	WILSON of First District.		
ESTEE of First District.	19		LAMPSON	42		SCHELL	62		WINANS		40
EVEY	20		LARKIN	43		SCHOMP			WYATT		41
FARRELL	21		LARUE		19	SHAFTER			Mr. PRESIDENT		42

Ayes 82

Noes 42

25)

On ~~the adoption of~~ that portion of the resolution relating to the removal of the commissioners the roll was called and ~~the~~ it was adopted by the following vote:—

26)

Roll-Call of Delegates to the Constitutional Convention, 1878.

Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.	Names.	Ayes.	Noes.
ANDREWS	1		FAWCETT			LAVIGNE	53		SHOEMAKER		
AYERS	2		FILCHER	25		LEWIS		9	SHURTLEFF		
BARBOUR	3		FINNEY	26		LINDOW			SMITH of Santa Clara.		
BARNES	4		FREEMAN			MANSFIELD	54		SMITH of Fourth District.	77	
BARRY	5		FREUD	27		MARTIN of Alameda.	55		SMITH of San Francisco.	78	
BARTON	6		GARVEY	28		MARTIN of Santa Cruz.			SOULE		
BEERSTECHER	7		GLASSCOCK	29		McCALLUM		10	STEDMAN		
BELCHER			GORMAN	30		McCOMAS	56		STEELE	79	
BELL	99		GRACE	31		McCONNELL	57		STEVENSON		15
BERRY			GRAVES	32		McCOY	58		[redacted]		
BIGGS			GREGG	33		McFARLAND		11	STUART	80	
BLACKMER	8		HAGER	34		McNUTT	59		SWEASEY	81	
BOGGS		1	HALE		4	MILLER	60		SWENSON	82	
BOUCHER	9		HALL	35		MILLS		12	SWING		
BROWN	10		HARRISON	36		MOFFAT			TERRY		16
BURT	11		HARVEY	37		MORELAND	61		THOMPSON	83	
CAMPBELL	12		HEISKELL	38		MORSE			TINNIN	84	
CAPLES	13		HEROLD	39		MURPHY			TOWNSEND	85	
CASSERLY	14		HERRINGTON	40		NASON	62		TULLY	86	
CHAPMAN			HILBORN			NELSON	63		TURNER		17
CHARLES	15		HITCHCOCK		5	NEUNABER	64		TUTTLE	87	
CONDON			HOLMES	41		NOEL		13	VACQUEREL		
COWDEN			HOWARD	42		O'DONNELL	65		VAN DYKE		18
CROSS	16		HUESTIS	43		OHLEYER	66		VAN VOORHIES	88	
CROUCH	17		HUGHEY			O'SULLIVAN	67		WALKER of Marin.	89	
DAVIS	18		HUNTER	44		OVERTON	68		WALKER of Tuolumne.		19
DEAN	19		INMAN	45		PORTER	69		WATERS		
DOWLING			JOHNSON	46		PROUTY	70		WEBSTER	90	
DOYLE	20		JONES	47		PULLIAM			WELLER	91	
DUDLEY of San Joaquin and Amador.			JOYCE	48		REDDY	71		WELLIN	92	
DUDLEY of Solano.		2	KELLY		6	REED	72		WEST	93	
DUNLAP			[redacted]			REYNOLDS	73		WICKES	94	
EAGON			KEYS	49		RHODES		14	WHITE	95	
EDGERTON	21		KLEINE	50		RINGGOLD	74		WILSON of Tehama.	96	
ESTEY of Contra Costa and Marin.		3	LAINE		7	ROLFE	75		WILSON of First District.		
ESTEE of First District.	22		LAMPSON		8	SCHELL	76		WINANS		20
EVEY	23		LARKIN	51		SCHOMP			WYATT	97	
FARRELL	24		LARUE	52		SHAFTER			Mr. PRESIDENT	98	

Ayes 99

Noes 20

27)

Further instructions

By Mr. Terry.

Resolved: That the Committee on Corporations be instructed to further amend section 20 so as to give the commissioners power to punish for contempt of their orders and process, in the same manner and to the same extent as courts of record.

adopted.

By Mr. McCallum.

Resolved. That

28)

The committee on Corporations be further instructed to so amend section 20 as to strike out so much thereof as provides that the charge fixed by the Commissioner shall be only prima facie evidence of the correctness of such charges.

Recess

The hour ~~of recess~~ having arrived the Convention took a recess till two o'clock P. M.

Afternoon Session

Convention reassembled

24) at two o'Clock P. M.
President Hoyt in the Chair
Quorum present.

Mr. Felchs offered the following substitute for the resolution pending at the hour of recess

Resolved: That the Committee on Corporations other than Municipal be instructed to further amend section 20 adopted by the Committee of the Whole by striking out the

30

words "Prima Facie" as they appear near the end of the section and inserting instead thereof the word "conclusively."

Messrs Smith of Santa Clara, Larkin, Steadman & McComas, and White demanded the previous question, which was ordered by the ~~question~~ Convention.

The question being on the amendment of

31)

of Mr. Fecper it was adopted. and as thus amended adopted by the convention.

By Mr. Waters.

Resolved:

~~that~~ Instruct committee on corporations to provide that the rates fixed shall not be conclusive against the people, but prima facie only as against the people.

Mr Hayes offered the following amendment

32

with further instructions.

"For general revision and further report."

Messrs Ayers - Lindow White, Howard and O'Sullivan demanded the previous question which was ordered by the convention.

The amendment of Mrs Hazen, and the resolution of Mrs. Wilkes

33) were both rejected
at four o'clock and
forty five minutes
P. M. on motion of
Mrs. Noel the
Convention ad-
journed

12/6/78